



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

NOV 21 2005

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Donald F. McGahn II, Esq.
McGahn and Associates, PLLC
601 Pennsylvania Avenue, NW
Suite 900, South Building
Washington, DC 20004

RE: MUR 5675
Americans for a Republican Majority
and Corwin Teltschik, in his official
capacity as Treasurer

Dear Mr. McGahn:

On August 17, 2005, the Federal Election Commission notified your clients, Americans for a Republican Majority and Corwin Teltschik, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint, information provided by you and information ascertained in the normal course of carrying out its supervisory responsibilities, the Commission, on November 17, 2005, found that there is reason to believe Americans for a Republican Majority and Corwin Teltschik, as treasurer, violated 2 U.S.C. § 434(b), a provision of the Act, and 11 C.F.R. §§ 102.5(a), 104.3(d), 104.10(b)(4), 104.11, 106.5(f) and 106.6. The Factual and Legal Analysis, which formed a basis for the Commission's findings, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred

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Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you have any questions, please contact Lynn Tran, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Michael E. Toner
Vice Chairman

Enclosures
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Americans for a Republican Majority; **MUR: 5675**
and Corwin Teltschik, in his official
capacity as Treasurer

I. INTRODUCTION

This matter originated with a complaint filed with the Federal Election Commission and information ascertained by the Commission in the ordinary course of its supervisory responsibilities. Based on the complaint, the response and other information, there is reason to believe that Americans for a Republican Majority ("ARMPAC") and Corwin Teltschik, in his official capacity as Treasurer (collectively "Respondents") violated the Federal Election Campaign Act of 1971, as amended ("the Act") by materially misstating financial activity, failing to properly report debts and over-funding the non-federal account's share of expenses.

II. FACTUAL AND LEGAL ANALYSIS

Based on the analysis set forth in the attached Audit Report, the Commission finds reason to believe that ARMPAC and its treasurer violated 2 U.S.C. § 434(b) and 11 C.F.R. §§ 102.5(a), 104.3(d), 104.10, 104.11, 106.5(f) and 106.6.

Outside the issues addressed in the Audit Report, complainant's sole new allegation is that unreported debts recounted in the second finding in the Audit Report may constitute prohibited corporate contributions or excessive in-kind contributions from the creditors to ARMPAC.

The Act prohibits corporations from making contributions or expenditures in connection with any election. See 2 U.S.C. § 441b(a); 11 C.F.R. § 114.2. A contribution is defined as "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person

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for the purpose of influencing any election.” 2 U.S.C. § 431(8)(A)(i). An extension of credit by a commercial vendor, including a corporation acting in its capacity as a commercial vendor, will not be considered a contribution provided that credit is extended in the ordinary course of the vendor’s business and the terms are substantially similar to extensions of credit to non political debtors of similar risk and size of obligation. *See* 11 C.F.R. §§ 116.3(a) and 116.3(b). A contribution will result, however, if the creditor fails to make a commercially reasonable attempt to collect the debt. *See* 11 C.F.R. § 116.4.

In assessing whether the credit was extended in the ordinary course of the commercial vendor’s business, the Commission will consider: (1) whether the commercial vendor followed its established procedures and its past practice in approving the extension of credit; (2) whether the commercial vendor received prompt payment in full if it previously extended credit to the same candidate or political committee; and (3) whether the extension of credit conformed to the usual and normal practice in the commercial vendor’s trade. *See* 11 C.F.R. § 116.3(c).

The complaint fails to identify which debts may constitute prohibited or excessive contributions. The transactions at issue here generally involve payments to commercial vendors that were paid in full by ARMPAC within 30-60 days of receiving the invoices, although four debts were paid from three to five months after the date of invoice. There is no indication from the records provided during the audit indicating that these extensions of credit were not made in the ordinary course of business, and ARMPAC’s response to the complaint in MUR 5675 states that these debts were paid in accordance with agreements between ARMPAC and its vendors. *See* ARMPAC response at 10. Given the speculative nature of these allegations, the Commission finds no reason to believe that Americans for a Republican Majority and Corwin Teltschik, in his

Factual and Legal Analysis
MUR 5675
ARMPAC

official capacity as Treasurer, violated 2 U.S.C. §§ 441a or 441b with respect to potential additional violations of the Act stemming from the \$322,306 in unreported debt.

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